

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P 5409	FOR FURTHER ACTION	See item 4 below
International application No. PCT/DE2005/000076	International filing date (<i>day/month/year</i>) 20 January 2005 (20.01.2005)	Priority date (<i>day/month/year</i>) 23 January 2004 (23.01.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant MEDIZINISCHES LASERZENTRUM LUEBECK GMBH		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).
 2. This REPORT consists of a total of 5 sheets, including this cover sheet.
- In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application
4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 18 October 2006 (18.10.2006)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center;">Agnes Wittmann-Regis</div> e-mail: pt06@wipo.int

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See Form PCT/ISA/210 (sheet 2)**

Applicant's or agent's file reference

P 5409

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/DE2005/000076

International filing date (day/month/year)

20.01.2005

Priority date (day/month/year)

23.01.2004

International Patent Classification (IPC) or both national classification and IPC

A61 B5/00, G01 B9/02, G01 N21/47

Applicant

MEDIZINISCHES LASERZENTRUM LUEBECK GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000076

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/DE2005/000076

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-8</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims <u>1-8</u>	YES
	Claims _____	NO
Industrial applicability (IA)	Claims <u>1-8</u>	YES
	Claims _____	NO

2. Citations and explanations:

- 1 Reference is made to the following document:
D1: DE 37 30 091 A1 (WILD HEERBRUGG AG; WILD
LEITZ AG, HEERBRUGG, CH) 6 October 1988
(1988-10-06)

- 2 Document D1 is considered to be the closest prior
art. It discloses (the references between
parentheses apply to said document):

*a measurement device for white light
interferometry, comprising a light source (1)
and a mask (6) placed in front of a linear
sensor (7) of an evaluation unit. The grating
spacings of the mask correspond as exactly as
possible to the spacing of the interference
fringes on the interferogram,*

from which the subject matter of independent claim
1 differs in that the grating spacings of the mask
do not correspond to the spacings of the
interference fringes (difference of approximately
5%-10%, see description, page 8).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

- 2.1 Therefore, the subject matter of claim 1 is novel (PCT Article 33(2)).
- 2.2 The technical problem to be solved by the present invention can therefore be considered that of realising a measurement device for white light interferometry without moving components, but which nevertheless allows the simple separation of useful signal and background.
- 2.3 The solution to this problem as proposed in claim 1 of the present invention is based, for the following reasons, on an inventive step (PCT Article 33(3)): in document D1, good separation of useful signal and background is only achieved by the linear sensor when movable components are appropriately arranged. In contrast, the invention in claim 1 achieves the aim by suitably defining the grating spacings, taking several parameters into account (see equation in claim 1).
- 2.4 Claims 2-8 depend on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.